

## RESIDENTIAL SERVICE PROTECTION

**Note:** Sections 2 to 8 and 16, chapter 290, Oregon Laws 1987, provide:

**Sec. 2.** The Legislative Assembly declares that it is the policy of this state to assure that adequate, affordable residential telecommunication service is available to all citizens of this state. [1987 c.290 §2]

**Sec. 3.** In carrying out the provisions of section 2 of this 1987 Act, the Public Utility Commission may require telecommunications public utilities to assure that time payment plans for deposits and installation charges or such other options as may be appropriate for a particular telecommunications public utility are made available. [1987 c.290 §3]

**Sec. 4.** In carrying out the provisions of section 2 of this 1987 Act the Public Utility Commission may:

(1) Notwithstanding ORS 757.310, approve a different rate for local exchange residential telecommunication service for low income customers than the rate charged to other residential customers. However, any such rate is subject to all other provisions of this chapter.

(2) Establish plans, or require telecommunications public utilities to establish plans, to educate customers regarding the options available for obtaining telecommunication services. [1987 c.290 §4]

**Sec. 5.** (1) In carrying out the provisions of section 2 of this 1987 Act, the Public Utility Commission shall establish rules to prohibit the termination of local exchange residential service when such termination would significantly endanger the physical health of the residential customer.

(2) The commission shall provide by rule a method for determining when the termination of local exchange residential service would significantly endanger the physical health of the residential customer.

(3)(a) The commission shall require that each telecommunications public utility:

(A) Accept medical statements by licensed physicians and licensed nurse practitioners as sufficient evidence of significant endangerment of health; and

(B) Establish procedures for submitting and receiving such medical statements.

(b) A medical statement submitted under this subsection shall be valid for such period as the commission, by rule, may prescribe.

(4) Rules adopted by the commission pursuant to this section shall not apply to telecommunication service other than local exchange residential service.

(5) A customer submitting a medical certificate as provided in this section is not excused from paying for telecommunication service. Customers are required to enter into a time payment agreement with the utility if an overdue balance exists. Local exchange service is subject to termination if a customer refuses to enter into or fails to abide by terms of a payment agreement.

(6) Nothing in this section prevents the termination of local exchange residential service if the telecommunications public utility providing the service does not have the technical ability to terminate toll telecommunication service without also terminating local exchange telecommunication service. [1987 c.290 §5]

**Sec. 6.** (1) In carrying out the provisions of section 2, chapter 290, Oregon Laws 1987, the Public Utility Commission shall establish a plan to provide assistance to low income customers through differential rates or otherwise. The plan of assistance shall be designed to use, to the maximum extent possible, the available funding offered by the Federal Communications Commission, and may provide different levels of assistance to low income customers based upon differences in local exchange rates. The plan established by the commission shall prescribe the amount of assistance to be provided and the time and manner of payment.

(2) For the purpose of establishing a plan to provide assistance to low income customers under this section, the commission shall require all public utilities, cooperative corporations and unincorporated associations providing local exchange telecommunication service to participate in the plan, except as provided in subsection (3) of this section.

(3) In lieu of participation in the commission's plan to assist low income customers, a public utility, cooperative corporation or unincorporated association providing local exchange telecommunication service may apply to the commission to establish an alternative plan for the purpose of carrying out the provisions of section 2, chapter 290, Oregon Laws 1987, for its own customers. The commission shall adopt standards for determining the adequacy of alternative plans.

(4) The commission may contract with any governmental agency to assist the commission in the administration of any assistance plan adopted pursuant to this section.

(5)(a) As used in sections 2 to 6, chapter 290, Oregon Laws 1987, “low income customer” means an individual determined by the commission:

(A) To be receiving benefits from the Supplemental Nutrition Assistance Program or from another low income public assistance program for which eligibility requirements limit participation to individuals with income that does not exceed 135 percent of federal poverty guidelines; or

(B) To be a resident of a long term care facility, as defined in ORS 442.015, or a residential care facility, as defined in ORS 443.400:

(i) Who receives medical assistance under ORS chapter 414; and

(ii) Who has income that does not exceed 135 percent of federal poverty guidelines.

(b) The commission must be able to verify the continuing participation of a low income customer in a program described in paragraph (a) of this subsection. [1987 c.290 §6; 1991 c.622 §1; 2007 c.29 §1; 2009 c.599 §25]

**Sec. 7.** (1) In order to fund the programs provided in sections 2 to 6 and 9 to 14, chapter 290, Oregon Laws 1987, the Public Utility Commission shall develop and implement a system for assessing a surcharge in an amount not to exceed 35 cents per month against each paying retail subscriber who has telecommunications service with access to the telecommunications relay service. The surcharge shall be applied on a telecommunications circuit designated for a particular subscriber. One subscriber line shall be counted for each circuit that is capable of generating usage on the line side of the switched network regardless of the quantity of customer premises equipment connected to each circuit. For providers of central office based services, the surcharge shall be applied to each line that has unrestricted connection to the telecommunications relay service. These central office based service lines that have restricted access to the telecommunications relay service shall be charged based on software design. For cellular, wireless or other radio common carriers, the surcharge shall be applied on a per instrument basis, but applies only to subscribers whose place of primary use, as defined and determined under 4 U.S.C. 116 to 126, is within this state.

(2) The surcharge imposed by subsection (1) of this section does not apply to:

(a) Services upon which the state is prohibited from imposing the surcharge by the Constitution or laws of the United States or the Constitution or laws of the State of Oregon.

(b) Interconnection between telecommunications utilities, telecommunications cooperatives, competitive telecommunications services providers certified pursuant to ORS 759.020, radio common carriers and interexchange carriers.

(3) The commission annually shall review the surcharge and the balance in the Residential Service Protection Fund and may make adjustments to the amount of the surcharge to ensure that the fund has adequate resources but that the fund balance does not exceed six months of projected expenses.

(4) Moneys collected pursuant to the surcharge shall not be considered in any proceeding to establish rates for telecommunication service.

(5) The commission shall direct telecommunications public utilities to identify separately in bills to customers for service the surcharge imposed pursuant to this section. [1987 c.290 §7; 1991 c.622 §2; 1991 c.872 §8; 1993 c.231 §1; 1995 c.79 §387; 1995 c.451 §1; 2001 c.408 §2]

**Sec. 8.** The Residential Service Protection Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by moneys in the fund shall be credited to the fund. All moneys in the fund are appropriated to the Public Utility Commission to carry out the provisions of chapter 290, Oregon Laws 1987. [1987 c.290 §8; 1989 c.966 §74; 1991 c.622 §3; 1991 c.872 §1; 1993 c.231 §2]

**Sec. 16.** Chapter 290, Oregon Laws 1987, is repealed January 1, 2020. [1987 c.290 §16; 1991 c.622 §4; 1997 c.481 §1; 2001 c.408 §1; 2009 c.544 §1]

**Note:** Sections 1 and 2, chapter 204, Oregon Laws 2005, provide:

**Sec. 1.** Section 2 of this 2005 Act is added to and made a part of sections 2 to 6, chapter 290, Oregon Laws 1987. [2005 c.204 §1]

**Sec. 2.** (1) In carrying out the provisions of section 2, chapter 290, Oregon Laws 1987, the Public Utility Commission shall adopt rules to prohibit the termination of local exchange residential service if the termination would significantly endanger a customer, or a person in the household of the customer, who is:

(a) At risk of domestic violence, as defined in ORS 135.230;

(b) At risk of unwanted sexual contact, as defined in ORS 163.305;

(c) A person with a disability, as defined in ORS 124.005, who is at risk of abuse, as defined in ORS 124.005

(1)(a), (d) or (e);

(d) An elderly person, as defined in ORS 124.005, who is at risk of abuse, as defined in ORS 124.005 (1)(a), (d) or (e); or

(e) A victim of stalking, as described in ORS 163.732.

(2) A customer may establish that termination of local exchange residential service would significantly endanger the customer, or a person in the household of the customer, by providing a telecommunications public utility with an affidavit signed by the customer stating that termination would place the customer, or a person in the household of the customer, at significant risk of domestic violence, as defined in ORS 135.230, or of unwanted sexual contact, as defined in ORS 163.305. The customer must attach to the affidavit a copy of an order issued under ORS 30.866, 107.700 to 107.735, 124.005 to 124.040 or 163.738 that restrains another person from contact with the customer, or a person in the household of the customer, or a copy of any other court order that restrains another person from contact with the customer, or a person in the household of the customer, by reason of a risk described in subsection (1) of this section or by reason of stalking.

(3) The commission shall require that each telecommunications public utility establish procedures for submitting and receiving affidavits under subsection (2) of this section.

(4) This section does not apply to termination of any telecommunication service other than local exchange residential service.

(5) A customer submitting an affidavit as provided by subsection (2) of this section is not excused from paying for telecommunication service. Customers are required to enter into a reasonable payment agreement with the telecommunications public utility if an overdue balance exists. Local exchange residential service may be terminated if a customer refuses to enter into or fails to abide by the terms of a reasonable payment agreement.

(6) Nothing in this section prevents the termination of local exchange residential service if the telecommunications public utility providing the service does not have the technical ability to terminate toll telecommunication service without also terminating local exchange residential service. [2005 c.204 §2; 2007 c.70 §359]

## **ASSISTIVE TELECOMMUNICATION DEVICES FOR PERSONS WITH DISABILITIES**

**Note:** Sections 9 to 16, chapter 290, Oregon Laws 1987, provide:

**Sec. 9.** As used in sections 9 to 14, chapter 290, Oregon Laws 1987, unless the context requires otherwise:

(1) “Adaptive equipment” means equipment that permits a person with a disability, other than a person who is hard of hearing or speech impaired, to communicate effectively on the telephone.

(2) “Applicant” means a person who applies for an assistive telecommunication device, adaptive equipment or a signal device.

(3) “Assistive telecommunication device” means a device that utilizes a keyboard, acoustic coupler, display screen, Braille display, speakerphone or amplifier to enable people who are deaf, deaf-blind, severely hard of hearing or severely speech impaired to communicate effectively on the telephone.

(4) “Audiologist” means a person who has a master’s or doctoral degree in audiology and a Certificate of Clinical Competence in audiology from the American Speech-Language-Hearing Association.

(5) “Deaf” means a profound hearing loss, as determined by an audiologist or a vocational rehabilitation counselor of the Department of Human Services, that requires use of an assistive telecommunication device to communicate effectively on the telephone.

(6) “Deaf-blind” means a hearing loss and a visual impairment, as determined by a licensed physician and by an audiologist or a vocational rehabilitation counselor of the Department of Human Services, that require use of an assistive telecommunication device to communicate effectively on the telephone.

(7) “Disability” means a physical condition, as determined by a licensed physician or vocational rehabilitation counselor of the Department of Human Services, other than hearing or speech impairment that requires use of adaptive equipment to utilize the telephone.

(8) “Hearing aid specialist” means a person licensed to deal in hearing aids under ORS chapter 694.

(9) “Physician” means an applicant’s primary care physician or a medical specialist who is able to determine an applicant’s disability and to whom the applicant was referred by the primary care physician.

(10) "Recipient" means a person who receives adaptive equipment, an assistive telecommunication device or a signal device.

(11) "Severely hard of hearing" means a hearing loss, as determined by an audiologist or vocational rehabilitation counselor of the Department of Human Services, that requires use of an assistive telecommunication device to communicate effectively on the telephone.

(12) "Severely speech impaired" means a speech disability, as determined by a speech-language pathologist or vocational rehabilitation counselor of the Department of Human Services, that requires use of an assistive telecommunication device to communicate effectively on the telephone.

(13) "Signal device" means a mechanical device that alerts a person who is deaf, deaf-blind or severely hard of hearing of an incoming telephone call.

(14) "Speech-language pathologist" means a person who has a master's degree or equivalency in speech-language pathology and a Certificate of Clinical Competence issued by the American Speech-Language-Hearing Association.

(15) "Telecommunications relay center" means a facility authorized by the Public Utility Commission to provide telecommunications relay service.

(16) "Telecommunications relay service" means the provision of voice and teletype communication between users of some assistive telecommunication devices and other parties. [1987 c.290 §9; 1991 c.872 §2; 1995 c.280 §32; 1995 c.451 §2; 1999 c.384 §1; 2007 c.28 §1; 2007 c.70 §353]

**Sec. 10.** It is recognized that a large number of people in this state, through no fault of their own, are unable to utilize telecommunication equipment due to the inability to hear or speak well enough or due to other disabilities. It is also recognized that present technology is available, but at significant cost, that would allow these people to utilize telecommunication equipment in their daily activities. There is, therefore, a need to make available such technology in the form of assistive telecommunication devices and a telecommunications relay service for people who are deaf, severely hard of hearing or severely speech impaired or adaptive equipment for people with disabilities at no additional cost beyond normal telephone service. The provision of assistive telecommunication devices and a telecommunications relay service or adaptive equipment would allow those formerly unable to use telecommunication systems to more fully participate in the activities and programs offered by government and other community agencies, as well as in their family and social activities. The assistive telecommunication devices or adaptive equipment would be provided on a loan basis to each recipient, to be returned if the recipient moves out of the state. [1987 c.290 §10; 1991 c.872 §3; 1999 c.384 §2; 2007 c.70 §354]

**Sec. 11.** (1) With the advice of the Telecommunication Devices Access Program Advisory Committee, the Public Utility Commission shall establish and administer a statewide program to purchase and distribute assistive telecommunication devices to persons who are deaf, severely hard of hearing, severely speech impaired or deaf-blind and establish a dual party relay system making telephone service generally available to persons who are deaf, severely hard of hearing, severely speech impaired or deaf-blind.

(2) With the advice of the Telecommunication Devices Access Program Advisory Committee, the Public Utility Commission shall establish and administer a statewide program to purchase and distribute adaptive equipment to make telephone service generally available to persons with physical disabilities. [1987 c.290 §11; 1991 c.872 §4; 1999 c.384 §3; 2007 c.70 §355]

**Sec. 12.** (1) A Telecommunication Devices Access Program Advisory Committee shall be established to advise the Public Utility Commission concerning matters of general development, implementation and administration of the Telecommunication Devices Access Program.

(2) The Telecommunication Devices Access Program Advisory Committee shall include:

(a) Nine consumers including seven who are deaf or hard of hearing, one who is speech impaired and one who has a disability;

(b) One professional in the field of speech impairment, hearing impairment or deafness or disability;

(c) One member of the Public Utility Commission or a designee of the commission; and

(d) One representative from those telephone companies interested in providing telecommunication devices access relay services. [1987 c.290 §12; 1991 c.872 §5; 2007 c.70 §356]

**Sec. 13.** (1) The Public Utility Commission shall employ a coordinator for the Telecommunication Devices Access Program, who shall be primarily responsible for:

(a) The distribution and maintenance of assistive telecommunication devices and adaptive equipment;

(b) The provision of telecommunications relay services and monitoring of those service providers; and

(c) Community outreach to locate potential beneficiaries of the Telecommunication Devices Access Program.

(2) The commission may contract with any governmental agency, or other entity the commission considers to be qualified, to assist the commission in the administration of sections 9 to 14, chapter 290, Oregon Laws 1987. [1987 c.290 §13; 1991 c.872 §6; 1999 c.384 §4]

**Sec. 14.** (1)(a) In order to be eligible to receive assistive telecommunication devices or adaptive equipment, individuals must be certified as deaf, severely hard of hearing, severely speech impaired or deaf-blind by a licensed physician, audiologist, hearing aid specialist, speech-language pathologist or vocational rehabilitation counselor of the Department of Human Services. Certification implies that the individual cannot use the telephone for expressive or receptive communication.

(b) No more than one assistive telecommunication device or adaptive equipment device shall be provided to a household. However, two assistive telecommunication devices or adaptive equipment devices may be provided to a household if more than one eligible person permanently resides in the household. Households without any assistive telecommunication devices or adaptive equipment shall be given priority over households with one assistive telecommunication device or adaptive equipment device when such devices are distributed.

(c) Sections 9 to 14, chapter 290, Oregon Laws 1987, do not require a telecommunications utility to provide an assistive telecommunication device to any person in violation of ORS 646.730.

(2)(a) In order to be eligible to receive adaptive equipment, individuals must be certified to have the required disability by a person or agency designated by the Public Utility Commission to make such certifications. Certification implies that the individual is unable to use the telephone.

(b) Sections 9 to 14, chapter 290, Oregon Laws 1987, do not require a telecommunications utility to provide adaptive equipment to any person in violation of ORS 646.730. [1987 c.290 §14; 1989 c.115 §1; 1991 c.872 §7; 1995 c.280 §33; 1999 c.384 §5; 2007 c.28 §2; 2007 c.70 §357]

**Sec. 15.** The program of distribution provided in sections 9 to 14 of this Act is to be phased in over a period ending January 1, 1992. [1987 c.290 §15]

**Sec. 16.** Chapter 290, Oregon Laws 1987, is repealed January 1, 2020. [1987 c.290 §16; 1991 c.622 §4; 1997 c.481 §1; 2001 c.408 §1; 2009 c.544 §1]